RECENT CASE NOTES

ADMINISTRATIVE LAW—ACT OF STATE—DEFENCE FOR ACTS WITHIN KING'S DOMINION.—The plaintiff, a citizen of the United States, was arrested for drilling revolutionary troops in Ireland. The defendant, the officer making the arrest, seized and detained the plaintiff's money. His act was ratified by the Chief Secretary for Ireland as an officer of the Crown. On being released from jail, the plaintiff sued the officer for conversion. The defendant alleged that the plaintiff was an alien and pleaded that the seizure was an Act of State. *Held,* that the defence of Act of State was invalid as to acts committed in the King's Dominions on a bare averment that the plaintiff was an alien. *Johnstone v. Pedlar* (1921, H. L.) 37 T. L. R. 870.

In England, an act injurious to the person or property of an *alien,* committed *abroad* by a representative of the Crown, and either previously authorized or later ratified by the Crown, becomes an Act of State and may not be reviewed by a municipal court. See Moore, *Act of State in English Law* (1906) 93; Borchard, *Diplomatic Protection of Citizens Abroad* (1915) 174; *Buron v. Denman* (1848) 2 Exch. 167. The principal case has decided for the first time the application of the doctrine to an alien within the United Kingdom. The result was predicted by Moore, *op. cit.* 95. Aliens within the boundaries of a country are now generally entitled to the same civil protection as citizens. *Yick Wo v. Hopkins* (1886) 118 U. S. 366, 6 Sup. Ct. 1064; *cf. Halsey v. Lowenfeld* [1916, C. A.] 2 K. B. 707. Courts refrain, however, from passing on the political acts of their own government. See COMMENTS (1918) 27 YALE LAW JOURNAL, 813. The Supreme Court of the United States refused to review the ratified expulsion of a Chinese from the Philippines by the Governor General on the theory that it was the exercise of a political privilege and became an Act of State. *Tiaco v. Forbes* (1913) 228 U. S. 549, 33 Sup. Ct. 585. The expulsion of an alien, having been within the power of the Philippine Congress, was as much a political act as if it had been authorized by the Federal Congress. It did not require commission abroad to be an Act of State, as it apparently does under the English doctrine. Nor is the American theory limited in its application to aliens. *The Wiggins Case* (1867) 3 Ct. Cl. 412, 423 (relieving officers of liability from suit by citizens); *Paquete Habana* (1902) 189 U. S. 453, 465, 23 Sup. Ct. 593, 594 (relieving officers of liability for wrongful capture of foreign fishing smacks); see *O'Reilly v. Brooke* (1908) 209 U. S. 45, 28 Sup. Ct. 439 (relieving military governor of Cuba from suit); *cf. Cook v. Sprigg* [1899, P. C.] A. C. 572. Moreover, it merges into the doctrine of non-suability of the State, peculiar to Anglo-American law, when the State adopts as its own the act of the officer; both State and officer being thus relieved of municipal legal liability. Any doctrine relieving the public authorities from liabilities for injuries should be limited as far as possible. For this reason the British Court's refusal in the instant case to extend the Act of State doctrine is to be commended.

AGENCY—UNDISCLOSED PRINCIPAL—RIGHT TO ENFORCE A CONTRACT UNDER SEAL.—The plaintiff, an undisclosed principal, sought specific performance of a contract under seal to make a lease. The lower court sustained the defendant's demurrer. *Held,* that the demurrer should be overruled since there was a cause of action. *Lagumis v. Gerard* (1921, N. Y. Sup. Ct.) 65 N. Y. L. JOUR. 143 (Sept. 20, 1921).

The prevailing common-law rule in this country is that the doctrine that an